

KAMS300010322018



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl.Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 05th day of January, 2026

OS No.48/2018

Plaintiff: Sri.S.B.Puttasetty, S/o Late Basavasetty,
Aged about 67 years, R/at # 844,
Ashrama Road, 4th cross, Hinkal village,
Mysore.

-Vs-

Defendant: Sri.Huchegowda, S/o Late Kuri Huchegowda,
Aged about 65 years, R/at # 769,
Opp: Kaveri Grameena Bank,
Hunsur-Mysuru Main Road,
Hinkal village and Post, Mysore Taluk.

1.	Provision under which the applications are filed	:	Under Section 151 of CPC and Order 18 Rule 17 R/w Section 151 of CPC
2.	Relief sought for	:	To reopen the case and to recall PW1 for the purpose of further cross-examination
3.	The date on which the application is filed	:	26.11.2025
4.	Number of the applications	:	IA.No.XXII and XXIII

5.	The date on which the objections are filed by different opponents	:	04.12.2025
6.	The date on which the orders passed on the said application	:	05.01.2026

ORDERS PASSED ON IA NO.XI AND XII

When the case is posted for defendants arguments, the learned counsel for the defendant filed IA No.XXII under Section 151 of CPC and IA No.XXIII under Order 18 Rule 17 R/w Section 151 of CPC to reopen the case and to recall PW1 for the purpose of further cross-examination.

2. Both the applications are supported with the affidavits of the defendant wherein he has stated that, the plaintiff filed the suit for the relief of specific performance of contract and now the case is posted for arguments and the applications are filed to reopen the case for the purpose of further cross-examination of PW1 on Ex.D17 to D28 documents. The reason is bonafide one and it is not intentional. If the applications are not allowed he will be put to great hardship and inconvenience and if the same are allowed no injuries will be caused to the other-side. Hence, prayed to allow the applications.

3. Per contra learned counsel for the plaintiff filed common objection contending that the applications are not maintainable under law or on facts. It is further contended that, already the complete cross-examination of PW1 was over

and already the plaintiff side arguments was addressed and when the case is posted for defendants arguments these applications are filed only to drag on the proceedings. The defendant has not mentioned specific reason for further cross-examination of PW1. The applications are filed with malafide intention and to cause physical and mental harassment to the plaintiff. The applications are filed to waste the precious time of the court. Hence, prayed to dismiss the applications with heavy costs.

4. Thereafter heard arguments addressed by learned counsels for the plaintiff and the defendants and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the defendant has made out sufficient grounds for reopen of the case and to recall PW1 for the purpose of further cross-examination?
2. What order?
5. The findings on the above points are as hereunder:
Point No.1: In the affirmative
Point No.2: As per the final order
for the following:

REASONS

6. **Point No.1:** The plaintiff filed the suit against the defendant for the relief of specific performance of contract with regard to the sale agreement dated 25.09.2014. Upon service

of summons the defendant appeared before the court and filed the written-statement. On the basis of rival pleadings of the parties on 26.03.2019 this court framed the issues. In order to prove the case the plaintiff stepped into the witness box and examined himself as PW1 and got marked totally 8 documents as per Ex.P1 to P8. Already the cross-examination of PW1 was completed and he got examined two witnesses as PW2 and PW3. On the other-hand the defendant also examined himself as DW1 and got marked 29 documents as per Ex.D1 to D29. On 06.11.2025 the plaintiff was further cross-examined and the case has been posted for arguments. Admittedly already the plaintiff side arguments was addressed and when the case was posted for defendants arguments these applications are filed. In the affidavits filed in support of the applications it is stated that, the defendant wants to further cross-examine PW1 on the documents marked as per Ex.D17 to D29. Those documents are material documents. On the other-hand the learned counsel for the plaintiff alleged that, complete cross-examination of PW1 has been completed. It is to be noted that, the suit is for the relief of specific performance of contract and it is the settled principles of law that ample opportunity shall be given to the parties to put-forth their case. Admittedly the defendant delayed the proceedings of this case and it needs to be compensated by imposing costs. If the applications are allowed, no hardship is going to be caused to the other-side

which cannot be cured. On the other-hand the further cross-examination of PW1 will enable this court to come to a just conclusion. Hence, this court comes to the conclusion that, there are sufficient grounds to allow the applications. Accordingly, Point No.1 is answered Affirmative.

7. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

IA.No.XXII filed under Section 151 of CPC and I.A. No.XXIII filed under Order 18 Rule 17 R/w Section 151 of CPC by the defendant are hereby allowed with costs of Rs.500/- each.

Accordingly, the case is reopened and PW1 is recalled for the purpose of further cross-examination subject to payment of costs.

(Typed by me directly on the Laptop, same is then corrected by me and then pronounced in the open Court on this the 05th day of January, 2026)

(Anitha)

Prl.Senior Civil Judge and JMFC.,
Hunsur.